

CHAPTER 92-01-04

MODIFIED WORKERS COMPENSATION COVERAGE

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92-01-04-01. Definitions.

1. "Custody" means incarceration in a facility operated by the department or under contract with the department.
2. "Department" means the department of corrections and rehabilitation.
3. "Inmate" means a person in the custody of the department.
4. "Penitentiary" means the North Dakota state penitentiary and its affiliated facilities.
5. "Prison industries work program" means any inmate work program operated through roughrider industries.
6. "Released from custody" means released on parole, released on community corrections placement, released on conditional pardon, or discharged from any facility operated by the department or under contract with the department.
7. "Subsequent period of incarceration" means incarceration resulting from revocation of parole, revocation of conditional pardon, revocation of community corrections release, or revocation of probation, or incarceration pursuant to a criminal judgment.
8. "Wages", for purposes of calculating disability benefits under the program of modified workers' compensation, means the money an inmate earns while working in a prison industries work program, before deductions from earnings. The term does not include the reasonable value of room, board, medical care, or other services provided by the

department and does not include income from any source other than working in a prison industries work program.

History: Effective May 1, 1998.

General Authority: NDCC 65-02-08, 65-06.2-06

Law Implemented: NDCC 65-06.2-04, 65-06.2-06

92-01-04-02. Applicability of statutes and other regulations - Risk management program requirements. Unless otherwise provided by statute or rule, if the department has elected to provide modified workers' compensation coverage to inmates working in a prison industries work program, North Dakota Century Code title 65 and North Dakota Administrative Code articles 92-01, 92-02, and 92-05 apply. The department shall disclose to the organization the name of any business or entity with whom the department contracts to establish a prison industries work program for purposes of allowing the organization and the risk management fund the opportunity to assess the loss prevention practices of that business or entity to ensure minimal risk to inmates working in a prison industries work program. The department shall annually provide to the organization documentation of excess coverage or reinsurance.

History: Effective May 1, 1998.

General Authority: NDCC 65-02-08, 65-06.2-06

Law Implemented: NDCC 65-06.2-04, 65-06.2-05, 65-06.2-06

92-01-04-03. Classification of inmates - Costs of administration. Inmates working in a prison industries work program are in a single classification under roughrider industries. The account for this classification will be billed an annual amount equal to the organization's minimum premium charge established under section 92-01-02-20 to cover the expense of issuing coverage. The department shall annually reimburse to the organization all allocated loss adjustment expenses, including all claim benefit costs, and all administrative expenses, incurred in the classification during the preceding year. The organization will calculate and charge to roughrider industries a cost of claims administration so that the ratio of the administrative charge to allocated loss adjustment expenses in the classification is equal to the ratio of the organization's overall administrative expenses to total allocated loss adjustment expenses.

History: Effective May 1, 1998.

General Authority: NDCC 65-02-08, 65-06.2-06

Law Implemented: NDCC 65-06.2-04, 65-06.2-06

92-01-04-04. Inmate health care services. The department, through the penitentiary, has control over and may direct health care services for an inmate, including the selection of treating and consulting physicians and all other health care provides. The department shall schedule health care services, including medical and diagnostic services, chiropractic services, and ancillary services such as physical and occupational therapy, which are determined to be medically necessary for an inmate who is injured while working in a prison industries work program, according to applicable department rules, policies, and procedures. The

department, through the penitentiary, is responsible for payment of all health care services according to applicable penitentiary policies and procedures while the inmate is in custody.

History: Effective May 1, 1998.

General Authority: NDCC 65-02-08, 65-06.2-06

Law Implemented: NDCC 65-06.2-04, 65-06.2-05, 65-06.2-06

92-01-04-05. Vocational rehabilitation services. If the organization and the department determine that an injured inmate is in need of vocational rehabilitation services, the department, through the penitentiary, may provide vocational rehabilitation services to that inmate. Vocational rehabilitation services include penitentiary education programs, penitentiary vocational training programs, penitentiary vocational rehabilitation programs, penitentiary college programs, and institutional work.

History: Effective May 1, 1998.

General Authority: NDCC 65-02-08, 65-06.2-06

Law Implemented: NDCC 65-06.2-04, 65-06.2-05, 65-06.2-06

92-01-04-06. Health care services and wage-loss benefits paid when not in custody. If an inmate who has sustained a compensable injury while working in a prison industries work program has been released from custody, the organization shall provide and pay for health care services and procedures for that former inmate according to North Dakota Century Code title 65 and North Dakota Administrative Code title 92. The organization shall also pay wage-loss benefits under North Dakota Century Code chapter 65-05 based on the inmate's wage earned while working in a prison industries work program.

History: Effective May 1, 1998.

General Authority: NDCC 65-02-08, 65-06.2-06

Law Implemented: NDCC 65-06.2-04, 65-06.2-05, 65-06.2-06

92-01-04-07. Disability, vocational rehabilitation allowance, and permanent partial impairment benefits - Subsequent period of incarceration. Payment of disability benefits, vocational rehabilitation allowance, or permanent partial impairment benefits must be discontinued during any subsequent period of incarceration in any federal, state, regional, or local correctional facility.

History: Effective May 1, 1998.

General Authority: NDCC 65-02-08, 65-06.2-06

Law Implemented: NDCC 65-06.2-04, 65-06.2-05, 65-06.2-06